

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Appellant:</b>	Nestoryak	<b>Conf. No.:</b>	8177
<b>Serial No.:</b>	09/934,896	<b>Art Unit:</b>	2191
<b>Filing Date:</b>	08/22/2001	<b>Examiner:</b>	Vo, Ted T.
<b>Title:</b>	METHOD AND SYSTEM FOR INSTALLING A SOFTWARE PLATFORM ONTO A COMPUTER SYSTEM	<b>Docket No.:</b>	END920010006US1 (IBME-0013)

Mail Stop Appeal Brief- Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**BRIEF OF APPELLANTS**

This is an appeal from the Final Rejection dated May 5, 2006, rejecting claims 1-35.

This Brief is accompanied by the requisite fee set forth in 37 C.F.R. 1.17 (c).

**REAL PARTY IN INTEREST**

International Business Machines Corporation is the real party in interest.

**RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

## **STATUS OF CLAIMS**

As filed, this case included claims 1-35. Claims 1-35 remain pending. Claims 1-35 stand rejected and form the basis of this appeal.

## **STATUS OF AMENDMENTS**

An After Final Amendment was submitted by Appellants on July 5, 2006 in response to the After Final Rejection filed by the Office on May 5, 2006. The Office entered Appellants' amendment as evidenced by the Office's Advisory Action dated September 11, 2006.

## **SUMMARY OF THE CLAIMED SUBJECT MATTER**

The present invention provides a method and system for loading a software platform onto a computer system. The method and system allow a user to designate a target computer system by entering computer model and submodel identifiers, and to select a particular software platform. A control file pertaining to the selected software platform is then located and queried to identify an entry in the control file having computer model identifiers and submodel identifiers that match the entered identifiers. If a match is established, support data from the identified entry is displayed. Based upon the support data, a boot disk can be created and the selected software platform can be loaded onto the designated computer system.

Claim 1 claims a method for installing a software platform onto a computer system, comprising the following steps: providing a plurality of control files (see e.g., page 17, lines 5-6; page 13, line 21 through page 15, line 17; Figs. 1 and 2, item 22), each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15, line 17; Figs. 1 and 2, item 22);

designating, by a user, a computer system and a software platform of a plurality of software platforms to be installed on the designated computer system using a graphical user interface (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); and querying the control file of the particular software platform corresponding to the software platform designated by the user to identify an entry having computer system identifiers that pertain to the designated computer system (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106).

Claim 9 claims a method for installing a software platform onto a computer system, comprising the following steps: providing a plurality of control files (see e.g., page 17, lines 5-6; page 13, line 21 through page 15, line 17; Figs. 1 and 2, item 22), each control file having entries pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), wherein each entry comprises computer system identifiers and support data; entering, by a user, particular computer system identifiers into a graphical user interface (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); selecting, by a user, a particular software platform of a plurality of software platforms using the interface (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); querying the control file of the particular software platform corresponding to the software platform designated by the user to identify an entry having computer system identifiers that match the entered computer system identifiers (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106); and installing the selected software platform onto a computer system having the entered computer system identifiers (see e.g., page 15, lines 18-26; Fig. 2, item 50).

Claim 14 claims a method for installing a software platform onto a computer system, comprising the following steps: entering, by a user, a particular computer model identifier and a particular computer submodel identifier into a graphical user interface (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); selecting, by a user, a particular software platform from a plurality of software platforms using the interface (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); locating a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), wherein each entry comprises computer model identifiers, computer submodel identifiers, and support data (see e.g., page 9, lines 13-15; page 13, line 27 through page 14, line 15; Fig. 3, item 42); querying the located control file to identify an entry having a computer model identifier and a computer submodel identifier that match the entered computer model identifier and computer submodel identifier (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106); displaying the support data from the identified entry (see e.g., page 14, lines 3-15; Fig. 3, item 48); and installing the selected software platform onto a computer system having the entered identifiers based upon the displayed support data (see e.g., page 15, lines 18-26; Fig. 2, item 50).

Claim 16 claims a system for installing a software platform onto a computer system, comprising: a graphical user interface for entering, by a user, computer system identifiers and for selecting a software platform from a plurality of software platforms (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control

files (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15), each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), to identify an entry in the control file having computer system identifiers that match the entered computer system identifiers (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15); and a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers (see e.g., page 15, lines 18-26; Fig. 2, item 50).

Claim 23 claims a system for installing a software platform onto a computer system, comprising: an entry system for entering, by a user, computer system identifiers; a selection system for selecting, by a user, a software platform from a plurality of software platforms (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control files (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15), each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), to identify an entry having computer system identifiers that match the entered computer system identifiers (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15); and a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers (see e.g., page 15, lines 18-26; Fig. 2, item 50).

Claim 29 claims a system for installing a software platform onto a computer system, comprising: a graphical user interface having: an entry system for entering, by a user, a computer model identifier and a computer submodel identifier (see e.g., page 9, lines 13-15; page 13, line 27 through page 14, line 15; Fig. 3, item 42); and a selection system for selecting, by a user, a software platform from a plurality of software platforms (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control files (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15), each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), to identify an entry in the control file having a computer model identifier and a computer submodel identifier that match the entered computer model identifier and computer submodel identifier (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15); a display system for displaying support data from the identified entry (see e.g., page 14, lines 3-15; Fig. 3, item 48); and a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer model identifier and computer submodel identifier (see e.g., page 15, lines 18-26; Fig. 2, item 50).

Claim 30 claims a program product stored on a recordable medium for installing a software platform onto a computer system, which when executed, comprises: a graphical user interface for entering, by a user, computer system identifiers and for selecting a software platform from a plurality of software platforms (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); a query system for querying a control file

corresponding to the software platform selected by the user in a plurality of control files (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106), each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), to identify an entry in the control file having computer system identifiers that match the entered computer system identifiers (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106); and a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers (see e.g., page 15, lines 18-26; Fig. 2, item 50).

Claim 35 claims a program product stored on a recordable medium for installing a software platform onto a computer system, which when executed, comprises: graphical user interface for entering, by a user, computer system identifiers and for selecting a software platform from a plurality of software platforms (see e.g., page 11, lines 17-21; page 16, line 5 through page 17, line 3; Fig. 3, item 40); program code configured to query a control file corresponding to the software platform selected by the user in a plurality of control files (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106), each control file having entries of computer system identifiers pertaining to a particular software platform (see e.g., page 11, line 23 through page 12, line 6; page 13, line 21 through page 15; Figs. 1 and 2, item 22), to identify an entry in the control file having computer system identifiers that match the entered computer system identifiers (see e.g., page 11, lines 21-23; Fig. 2, item 46; page 12, lines 7-18; page 13, line 19 through page 14, line 15; Fig. 4, item 106); program code configured to display support data from the identified entry

(see e.g., page 14, lines 3-15; Fig. 3, item 48); and program code configured to create a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers (see e.g., page 15, lines 18-26; Fig. 2, item 50).

### **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-35 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Hohndel *et al.* “Automated Installation of Linux Systems Using YAST”, 1999, hereafter “Hohndel.”

### **ARGUMENT**

#### **1. REJECTION OF CLAIMS 1-35 UNDER 35 U.S.C. §102(b) OVER HOHNDEL**

Appellant respectfully submits that the rejection of claims 1-35 under 35 U.S.C. 102(b) over Hohndel is defective.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); see MPEP '2131, p. 2100-69. Because each and every element of claims 1, 3-5, 11, 12, 15, 17, 19, 21, 23, 25, 26 and 30 is not found in Guinta, Appellant respectfully requests overrule of the rejection under 35 U.S.C. 102(e).

In the above referenced Final Office Action, the Examiner alleges that Hohndel teaches providing a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform. The Office argues that the title of the Hohndel reference, “Automated Installation of Linux Systems Using Yast,” teaches providing a

control file. However, this title of Hohndel mentions nothing about the control file or that it is provided. Instead, the control file of Hohndel is taught elsewhere is being able to be added to a Linux boot disk after the file “sysliux.cfg” is manually altered. Page 262, paras. 5 and 6. To this extent, the control file is not automatically provided but rather can be added manually and, as such, is not an automated part of the “Automated Installation” of Hohndel.

Furthermore, the title of Hohndel does not teach a plurality of control files. The Office discounts this distinction by arguing, in essence, that even though the invention claims “a plurality of control files” the fact that a single control file is queried makes the multiple control files act like a single control file. In response, Appellant respectfully submits that the single control file that is queried is the control file of the particular software platform corresponding to the software platform designated by the user. To this extent, the control file that is queried is one that is selected from the plurality of control files based on the software platform designated by the user. Thus, the plurality of control files allows different software platforms to be installed because each control file has entries of computer system identifiers pertaining to a particular software platform. This is in contrast to Hohndel, in which only a single software platform, i.e., Linux, is contemplated. Thus, even were Hohndel to contemplate multiple control files, they would all contain information about the Linux software platform. As such, the plurality of control files of the claimed invention is not analogous to a “plurality” of CD disks, a “plurality” of PCs, or a plurality of systems as in the Office’s illustration. Instead, each control file of the plurality of control files of the claimed invention is unique in that it has entries of computer system identifiers *pertaining to a particular software platform*. Accordingly, the functionality provided by “providing a plurality of control files” is novel and does not merely act “like a single one that is old in the art” as the Office contends.

In contrast, the claimed invention includes “...providing a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform.” Claim 1. As such the providing step of the claimed invention, unlike the “Automated Installation” in the title of Hohndel that does not specifically mention and does not include the providing of a control file, instead provides a plurality of control files. Furthermore, unlike the single control file of Hohndel that only has information regarding the Linux software platform, each control file of the plurality of control files of the claimed invention has entries of computer system identifiers pertaining to a particular software platform. For the above reasons, neither the title nor Hohndel as a whole teaches the providing step of the claimed invention.

In the above referenced Final Office Action, the Examiner alleges that Guinta teaches designating, by a user, a computer system and a software platform of a plurality of software platforms to be installed on the designated computer system using a graphical user interface. The Office also equates this feature with the title of Hohndel. The Office further equates the graphical user interface of the claimed invention with guiding a user step to step through the installation of Linux. However, the fact, if true, that Hohndel guides a user step to step through a task does not, in and of itself, necessitate use of a graphical user interface to do so. The step to step guiding could use text-based commands, text based instructions, or other guides that are well known in the art as being outside the purview of the term “graphical user interface.” In fact, none of the description of the functionality of YaST in the Hohndel reference teaches or even suggests features resembling those of a graphical user interface.

Furthermore, neither the title of Hohndel nor the Office’s explanation teaches that a user designates or selects a software platform to be installed on a computer system from a plurality of software platforms. Instead, only a single software platform, i.e. Linux, is taught as being

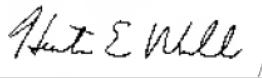
available in Hohndel.

In contrast, the present invention includes “...designating, by a user, a computer system and a software platform of a plurality of software platforms to be installed on the designated computer system using a graphical user interface.” Claim 1. As such, unlike the title “Automated Installation of Linux Systems Using Yast” of Hohndel, in the designating of the claimed invention, the user designates a software platform to be installed on a computer system from a plurality of software platforms. Furthermore, the user designates this software platform using a graphical user interface. Thus, the designating step of the present invention is not taught by the title of Hohndel. Accordingly, Appellant respectfully requests that the Office withdraw its rejection.

## CONCLUSION

In summary, Appellant submits that claims 1-35 are allowable because Hohndel fails to teach each and every feature of the claimed invention.

Respectfully submitted,



Hunter E. Webb  
Reg. No.: 54,593

Date: December 4, 2006  
Hoffman, Warnick & D'Alessandro LLC  
75 State Street, 14<sup>th</sup> Floor  
Albany, New York 12207  
(518) 449-0044  
(518) 449-0047 (fax)

RAD/hew

## CLAIMS APPENDIX

### Claim Listing:

1. A method for installing a software platform onto a computer system, comprising the following steps:
  - providing a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform;
  - designating, by a user, a computer system and a software platform of a plurality of software platforms to be installed on the designated computer system using a graphical user interface; and
  - querying the control file of the particular software platform corresponding to the software platform designated by the user to identify an entry having computer system identifiers that pertain to the designated computer system.
2. The method of claim 1, further comprising the subsequent steps of:
  - creating a boot disk; and
  - installing the designated software platform onto the designated computer system using the boot disk.
3. The method of claim 1, wherein the designating step comprises the steps of:
  - entering particular computer system identifiers into the interface; and
  - selecting a particular software platform using the interface.
4. The method of claim 3, wherein the entering step comprises the steps of:
  - entering a particular computer model identifier into the interface; and
  - entering a particular computer submodel identifier into the interface.
5. The method of claim 1, wherein the entries in the control file further comprise support data.
6. The method of claim 5, wherein the support data comprises licensing data and technical data.
7. The method of claim 5, further comprising the step of displaying the support data from the identified entry.
8. The method of claim 7, wherein the designated software platform is installed onto the computer system based upon the support data.
9. A method for installing a software platform onto a computer system, comprising the following steps:
  - providing a plurality of control files, each control file having entries pertaining to a particular software platform, wherein each entry comprises computer system identifiers and support data;
  - entering, by a user, particular computer system identifiers into a graphical user interface;
  - selecting, by a user, a particular software platform of a plurality of software platforms using the interface;

querying the control file of the particular software platform corresponding to the software platform designated by the user to identify an entry having computer system identifiers that match the entered computer system identifiers; and

installing the selected software platform onto a computer system having the entered computer system identifiers.

10. The method of claim 9, further comprising the step of displaying the support data corresponding to the identified entry.

11. The method of claim 10, wherein the software platform is installed based upon the displayed support data.

12. The method of claim 9, wherein the support data comprises licensing data and technical data.

13. The method of claim 9, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier.

14. A method for installing a software platform onto a computer system, comprising the following steps:

entering, by a user, a particular computer model identifier and a particular computer submodel identifier into a graphical user interface;

selecting, by a user, a particular software platform from a plurality of software platforms using the interface;

locating a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform, wherein each entry comprises computer model identifiers, computer submodel identifiers, and support data;

querying the located control file to identify an entry having a computer model identifier and a computer submodel identifier that match the entered computer model identifier and computer submodel identifier;

displaying the support data from the identified entry; and

installing the selected software platform onto a computer system having the entered identifiers based upon the displayed support data.

15. The method of claim 14, wherein the support data comprises licensing data and technical data.

16. A system for installing a software platform onto a computer system, comprising:

a graphical user interface for entering, by a user, computer system identifiers and for selecting a software platform from a plurality of software platforms;

a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform, to identify an entry in the control file having computer system identifiers that match the entered computer system identifiers; and

a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers.

17. The system of claim 16, wherein the interface comprises:  
an entry system for entering computer system identifiers; and  
a selection system for selecting a software platform.

18. The system of claim 16, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier.

19. The system of claim 16, wherein the control file comprises entries, and wherein each entry includes computer system identifiers and support data.

20. The system of claim 19, further comprising a display system for displaying the support data from the identified entry.

21. The system of claim 19, wherein the selected software platform is installed onto the computer system based upon the displayed support data.

22. The system of claim 16, wherein the selected software platform is an operating system.

23. A system for installing a software platform onto a computer system, comprising:  
an entry system for entering, by a user, computer system identifiers;  
a selection system for selecting, by a user, a software platform from a plurality of software platforms;  
a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform, to identify an entry having computer system identifiers that match the entered computer system identifiers; and  
a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers.

24. The system of claim 23, wherein the entry system and the selection system comprise an interface.

25. The system of claim 23, wherein the computer system identifiers comprise a computer model identifier and a computer submodel identifier.

26. The system of claim 23, wherein the control file comprises entries, and wherein each entry includes a computer model identifier, a computer submodel identifier, and support data.

27. The system of claim 26, further comprising a display system for displaying the support data from the identified entry.

28. The system of claim 27, wherein the selected software platform is installed onto the computer system based upon the displayed support data.

29. A system for installing a software platform onto a computer system, comprising:  
a graphical user interface having:  
an entry system for entering, by a user, a computer model identifier and a computer submodel identifier; and  
a selection system for selecting, by a user, a software platform from a plurality of software platforms;  
a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform, to identify an entry in the control file having a computer model identifier and a computer submodel identifier that match the entered computer model identifier and computer submodel identifier;  
a display system for displaying support data from the identified entry; and  
a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer model identifier and computer submodel identifier.

30. A program product stored on a recordable medium for installing a software platform onto a computer system, which when executed, comprises:  
a graphical user interface for entering, by a user, computer system identifiers and for selecting a software platform from a plurality of software platforms;  
a query system for querying a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform, to identify an entry in the control file having computer system identifiers that match the entered computer system identifiers; and  
a boot system for creating a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers.

31. The program product of claim 30, wherein the interface comprises:  
an entry system for entering computer system identifiers; and  
a selection system for selecting a software platform identifier.

32. The program product of claim 30, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier.

33. The program product of claim 30, wherein the control file comprises entries, and wherein each entry includes computer system identifiers and support data.

34. The program product of claim 33, further comprising a display system for displaying the support data from the identified entry, wherein the software platform is installed based upon the displayed support data.

35. A program product stored on a recordable medium for installing a software platform onto a

computer system, which when executed, comprises:

- graphical user interface for entering, by a user, computer system identifiers and for selecting a software platform from a plurality of software platforms;
- program code configured to query a control file corresponding to the software platform selected by the user in a plurality of control files, each control file having entries of computer system identifiers pertaining to a particular software platform, to identify an entry in the control file having computer system identifiers that match the entered computer system identifiers;
- program code configured to display support data from the identified entry; and
- program code configured to create a boot disk, based upon the identified entry, for the selected software platform to be installed onto a computer system having the entered computer system identifiers.

## **EVIDENCE APPENDIX**

No evidence is entered and relied upon in the appeal.

## **RELATED PROCEEDINGS APPENDIX**

No decisions rendered by a court or the Board in any proceeding are identified in the related appeals and interferences section.